

U.S. DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE
FEB - 5 2007
FILED

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

DWAYNE A. REDDICK,

Plaintiff,

v.

United States Department of Justice

Defendant.

Civil No. 05-256-SM

AMENDED FINAL ORDER

1. On May 17, 2006, the United States was served with Dwayne Reddick's complaint filed under 42 U.S.C. § 1983, and Magistrate Judge James Muirhead's order dated May 11, 2006 which dismissed most of Reddick's claims, but ordered the United States to respond to Reddick's collateral due process allegation that he did not receive Constitutionally adequate notice of the U.S. Drug Enforcement Administration's ("DEA") administrative forfeiture of \$2,895 in U.S. Currency.

2. The United States informed the Court, by Declaration of John Cipriani, Acting Forfeiture Counsel for DEA, that the funds were seized by the Nashua Police Department, and that DEA adopted the forfeiture on November 17, 2003. DEA also indicated that it was informed that Reddick was arrested on October 18, 2003, but released from incarceration on October 27, 2003.

3. According to Cipriani's Declaration, DEA sent two notices of the forfeiture proceeding to Dwayne Reddick at his last known residential address of 28 Railroad Square #20, Nashua, NH 03062. Both notices were returned to DEA, marked "unclaimed." After issuing

notice by publication in The Wall Street Journal for three consecutive weeks, DEA administratively forfeited the funds on March 24, 2004.

4. The Court treated Reddick's due process complaint as a motion, pursuant to 18 U.S.C. § 983(e), to set aside DEA's nonjudicial forfeiture \$2,895 in U.S. Currency in DEA Case No. CG-04-0013, Asset Identification No. 04-DEA-428254.

5. On July 24, 2006, based on the confession of error by the United States, pursuant to 18 U.S.C. § 983(e)(1)(B), the Court entered an order granting Reddick's motion without prejudice to the United States, and its right to commence a subsequent proceeding against the \$2,895 in U.S. Currency within 60 days of the entry of that order.

6. However, the United States has represented that the DEA never received a copy of the July 24, 2006, Order, and, has not, at this point in time, initiated a subsequent administrative forfeiture proceeding. The plaintiff, Dwayne Reddick, never objected to the July 24, 2006, Order.

7. Based on the United States' request for additional time within which to initiate a subsequent administrative forfeiture proceeding, pursuant to 18 U.S.C. § 983(e), the Court hereby amends the July 24, 2006 Order, to provide that the DEA may, in its discretion, initiate a subsequent administrative forfeiture proceeding against the \$2,895 in U.S. Currency seized from the plaintiff, within 60 days of the entry of this order.

Dated: February 5, 2007

/s/ Steven J. McAuliffe
~~United States District Judge~~
Chief Judge